

**CAUSE NO. 15-04-54538-CV**

**ROEL VALADEZ AND  
DARLETT VALADEZ**

**v.**

**STATE AUTOMOBILE MUTUAL  
INSURANCE COMPANY D/B/A STATE  
AUTO INSURANCE COMPANIES**

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**IN THE DISTRICT COURT**

**79<sup>TH</sup> JUDICIAL DISTRICT**

**JIM WELLS COUNTY, TEXAS**

**NOTICE OF FILING NOTICE OF REMOVAL**

TO: THE HONORABLE JUDGE OF SAID COURT;

THE HONORABLE R. DAVID GUERRERO P.O. DRAWER 2219, ALICE, TEXAS  
78332, JIM WELLS COUNTY DISTRICT CLERK;

ROEL VALADEZ AND DARLETT VALADEZ, PLAINTIFFS, BY AND THROUGH  
COUNSEL OF RECORD, MR. MICHAEL S. CARNAHAN, CARNAHAN THOMAS,  
1190 N. CARROLL AVE. SOUTHLAKE, TEXAS, 76092.

Notice is hereby given to you, in accordance with the provisions of 28 U.S.C. §1446(d), as amended, that on the 19<sup>th</sup> day of June, 2015, State Auto Property And Casualty Insurance Company, improperly named as State Automobile Mutual Insurance Company d/b/a State Auto Insurance Companies, Defendant, in the above-styled action instituted by Plaintiffs in the District Court of Jim Wells County, Texas, 79<sup>th</sup> Judicial District, duly filed in the United States District Court for the Southern District of Texas, Corpus Christi Division, a Notice of Removal of this action to said District Court. A copy of the said Notice of Removal is attached to this Notice as Exhibit "A".

Your attention is called to the fact that under the provisions of the Federal Judicial Code, the above-styled action has been removed to the aforesaid Federal District Court and that no further proceedings in the action can be had in the District Court of Jim Wells County, Texas, 79<sup>th</sup> Judicial District.

RESPECTFULLY SUBMITTED this day, the 19th day of June, 2015.

/s/ Charles B. Mitchell, Jr.

**CHARLES B. MITCHELL, JR.**

State Bar No. 14207000

Federal ID No.: 16627

**MICHAEL SHANE O'DELL**

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ATTORNEYS FOR DEFENDANT  
STATE AUTO PROPERTY & CASUALTY  
INSURANCE COMPANY

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the above and foregoing was served upon counsel of record for Plaintiffs, Mr. Michael S. Carnahan, Carnahan Thomas, 1190 N. Carroll Ave. Southlake, Texas, 76092, in accordance with Rules 21 and 21(a) of the Texas Rules of Civil Procedure, on the 19th day of June, 2015.

/s/ Charles B. Mitchell, Jr.

**CHARLES B. MITCHELL, JR.**

# **EXHIBIT “A”**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

**ROEL VALADEZ AND  
DARLETT VALADEZ**

*Plaintiffs*

v.

**STATE AUTOMOBILE MUTUAL  
INSURANCE COMPANY D/B/A STATE  
AUTO INSURANCE COMPANIES**

*Defendant*

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**CIVIL ACTION NO. 2:15-CV-278**

**NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE OF SAID COURT:

Pursuant to 28 U.S.C. §1446(a) and 28 U.S.C. § 1332(a), State Auto Property and Casualty Insurance Company (hereinafter “State Auto”), submits this Notice of Removal and shows the Court as follows:

**I. Introduction**

1.1 Plaintiffs are Roel Valadez and Darlett Valadez (hereinafter “Plaintiffs”); Defendant is State Auto Property And Casualty Insurance Company, improperly named as State Automobile Mutual Insurance Company d/b/a State Auto Insurance Companies (hereinafter “State Auto”).

1.2 On or about April 30, 2015, Plaintiffs sued Defendant in a suit styled *Roel Valadez and Darlett Valadez v. State Automobile Mutual Insurance Company d/b/a State Auto Insurance Companies*, Cause Number 15-04-54538-CV, in the 79<sup>th</sup> Judicial District Court in Jim Wells County, Texas alleging, through various causes of action, that State Auto breached its contract of insurance with Plaintiffs, violated various provisions of the Texas Insurance Code, violated the Texas Deceptive Trade Practices Act, committed common law bad faith, engaged in unfair

insurance practices, and committed said violations of the insurance code knowingly and intentionally, and committed common law fraud.

1.3 On or about June 15, 2015, Defendant State Auto filed a General Denial, Special Denials, Affirmative Defenses, and Special Exceptions in response to Plaintiffs' Petition.

1.4 Plaintiffs are the owners of property located at 1509 Sunset Dr., Alice, Texas 78332. Plaintiffs filed a claim for hail and wind damage to said property. Plaintiffs allege that on or about May 27, 2014, a wind and hail storm damaged Plaintiffs' property. State Auto inspected the property, determined the replacement cost of the roof system, and drafted a check to Plaintiff. At Plaintiffs' request, State Auto reinspected the property and paid additional amounts to Plaintiffs to ensure replacement of the identical roof material. Plaintiffs were not satisfied with the results and this suit followed.

1.5 Defendant State Auto was served by personal service on its registered agent and received notice of this suit on May 21, 2015. Defendant State Auto files this notice of removal within the 30-day time period required by 28 U.S.C. §1446(b) and within one year of commencement of the action.

## **II. Basis for Removal**

2.1 Removal is proper because there is complete diversity between the parties. 28 U.S.C. §1332(a); *Johnson v. Columbia Props. Anchorage, L.P.*, 437 F.3d 894, 899-900 (9th Cir. 2006). Plaintiffs are citizens and residents of the State of Texas. Defendant State Auto Property and Casualty Insurance Company, improperly named as State Automobile Mutual Insurance Company d/b/a State Auto Insurance Companies is a citizen of Ohio, with its place of incorporation and principal place of business in Ohio. Based upon the claims asserted by Plaintiffs and Plaintiffs' Original Petition filed in the underlying suit, it is believed, and Plaintiffs



have claimed an amount that exceeds \$75,000.00, excluding interest, and costs. 28 U.S.C. §1332(a); *Andrews v. E.I. du Pont de Nemours & Co.*, 447 F.3d 510, 514-15 (7th Cir. 2006).

2.2 All pleadings, process, orders, and other filings in the State Court action are attached to this notice as Exhibit “A” for all purposes herein as required by 28 U.S.C. §1446(a). Attached hereto as Exhibit “B” is a listing of all counsel of record as required by the Southern District of Texas local rule LR81. Furthermore, Exhibit “C” attached hereto is the Civil Cover Sheet.

2.3 Venue is proper in this district under 28 U.S.C. §1441(a) because the State Court where the action has been pending is located in this district.

2.4 Defendant will promptly file a copy of this Notice of Removal with the clerk of the State Court where the action has been pending.

### **III. Jury Demand**

3.1 Plaintiffs did demand a jury in the State Court action.

As there is complete diversity between the parties and the amount in controversy exceeds \$75,000.00, Defendant State Auto Property And Casualty Insurance Company, improperly named as State Automobile Mutual Insurance Company d/b/a State Auto Insurance Companies asks the Court to remove the suit to the United States District Court for the Southern District of Texas, Corpus Christi Division.

Respectfully submitted this 19th day of June, 2015.

/s/ Charles B. Mitchell, Jr.

**CHARLES B. MITCHELL, JR.**

attorney-in-charge

State Bar No. 14207000

Federal ID No.: 16627

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**ATTORNEYS FOR DEFENDANT  
STATE AUTO PROPERTY AND CASUALTY  
INSURANCE COMPANY IMPROPERLY NAMED AS  
STATE AUTOMOBILE MUTUAL INSURANCE  
COMPANY d/b/a STATE AUTO INSURANCE  
COMPANIES**

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the above and foregoing was served upon counsel of record for Plaintiffs, Mr. Michael S. Carnahan, Carnahan Thomas, 1190 N. Carroll Ave. Southlake, Texas, 76092, in accordance with Federal Rules of Civil Procedure, on the 19th day of June, 2015.

/s/ Charles B. Mitchell, Jr.  
**CHARLES B. MITCHELL, JR.**